

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

QBE INSURANCE CORPORATION,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 1:08CV300-SRW
) (WO)
ALABAMA MOTOR EXPRESS, INC.,)
)
Defendant.)

ORDER

By motion for interpleader filed May 28, 2008, plaintiff QBE Insurance Corporation seeks an order resolving coverage issues in its favor on several policies of insurance issued to the sole defendant in this action, Alabama Motor Express, Inc. (See Doc. # 8, pp. 4-5). As defendant argues, interpleader is appropriate only where there are conflicting claims against policy proceeds. See Fed. R. Civ. P. 22(a)(“Persons with claims that may expose a plaintiff to double or multiple liability may be joined as defendants and required to interplead.”); 28 U.S.C. § 1335(a)(1)(district court has jurisdiction over civil interpleader actions filed by a corporation issuing a policy of insurance where there are “[t]wo or more adverse claimants”); Dunbar v. United States, 502 F.2d 506 (5th Cir. 1974)(“In an interpleader action, the burden is on the party seeking interpleader to demonstrate that he is entitled to it. Although interpleader is available to a stakeholder even though no action has been brought against him nor any formal demand made upon him by some or all of the potential claimants, . . . a prerequisite for the action is that the party requesting interpleader demonstrate that he has been or may be subjected to adverse claims.”)(citations omitted);

Fulton v. Kaiser Steel Corp., 397 F.2d 580 (5th Cir. 1968)(statutory interpleader requires “two or more adverse claimants” and rule interpleader requires “the presence of claims that expose the plaintiff to double or multiple liability”). Plaintiff has not demonstrated that it is or may be subject to conflicting adverse claims against any of the policies at issue.

Accordingly, it is

ORDERED that the motion for interpleader (Doc. # 8) is DENIED.

DONE, this 5th day of June, 2008.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE